

Supreme Court

No. 1999-327-C.A.
(K1/96-591A)

State :
v. :
Raymond Lynch. :

Website Summary

The defendant, Raymond Lynch, appealed from Superior Court jury convictions of three counts of first-degree sexual assault and two counts of second-degree sexual assault. The victim of all five assaults was his developmentally impaired daughter, Mary.¹ The Court affirmed the convictions and the denial of defendant's motion for a new trial.

The defendant claimed multiple errors. He first asserted that the trial justice abused his discretion in finding Mary competent to testify in light of her developmental disabilities. After reviewing the four testimonial capacities required for a finding of competency, the Court concluded that the trial justice did not err in finding Mary competent to testify.

The defendant next alleged that hearsay statements made by Mary to the school psychologist were improperly admitted in violation of Rule of Evidence 803(4) because Mary did not seek out the psychologist for a diagnosis or treatment of her problems; rather, the psychologist sought out Mary. There was no showing that Mary's purpose in making the statements was for diagnosis or treatment from the psychologist, and thus no showing that Mary had a "strong motivation to be truthful." The Court concluded, therefore, that Mary's out-of-court statements to the school psychologist were not properly admissible. After reviewing the

¹ The names of the victim and all juveniles mentioned in this opinion are fictitious.

record, however, the Court concluded that the psychologist's testimony was merely cumulative in light of Mary's subsequent testimony, and thus the admission was harmless error.

In the middle of Mary's direct examination, she rose from her chair and made an aggressive rush from the witness stand toward defendant. The defendant argues that the trial justice abused his discretion by not granting defendant's motion to pass the trial. The Court held that the trial justice did not commit clear error in declining to grant the motion to pass, as he was in the best position to weigh the harm caused by this outburst.

The defendant moved in limine to request the court to allow evidence relative to a sexual assault perpetrated upon Mary by Fred Greene in 1990, for which Greene was tried and convicted. The defendant asserted that evidence of the assault was relevant to demonstrate that Mary had other sources for her knowledge of sexual acts. The Court found no abuse of discretion in the trial justice's decision to exclude the evidence because Fred Greene had been convicted, conclusively establishing the truthfulness of her accusations. The Court concluded, therefore, that the trial justice was well within his discretionary authority to exclude any reference to the sexual assault perpetrated by Fred Greene because such evidence was "shielded" by § 11-37-13, the Rape Shield Act. Moreover, the trial justice allowed defendant to cross-examine Mary about two more recent sexual encounters.

When she was sixteen years old, Mary filed a complaint against John, a juvenile, alleging sexual assault. The defendant argues that the trial justice committed error by permitting a police officer to testify that about John's oral statement to her that he had consensual sexual contact with Mary. The defendant argued that the trial justice erred because by admitting the statement under Rule 804(b)(3) because the statement was not "so far contrary to [John's] * * * criminal liability that it could [be] said that he believed his oral statement to the detective." The Court was

not satisfied that a reasonable declarant of the same age would be aware that statements acknowledging consensual sexual contact were against his penal or pecuniary interests. The Court thus held that the admission of the hearsay statement was error, but found the admission harmless error beyond a reasonable doubt because the defendant did not identify any prejudice from the admission.

The defendant also asserted that the hearsay testimony of Dr. Bridget McCue was improperly admitted by the trial justice under Rule 803(4). The Court found the fact that Mary recently had intercourse multiple times pertinent in the diagnosis of the cause of her pain in the pelvic area. The Court concluded that the trial justice did not abuse his discretion by admitting this hearsay testimony because it was reasonable to conclude that Mary would not lie to the doctor about the cause of her pain, and the statement aided in the diagnosis and treatment.

The defendant also argued that the trial justice improperly admitted certain physical evidence without showing a continuous chain of custody, and thus the trial justice erred in permitting a forensic scientist to testify that the tests that she performed on pubic hair samples revealed the presence of semen. The Court concluded that the state satisfied its burden of establishing a reasonable probability that no one tampered with the evidence. Accordingly, the evidence on the chain of custody in this case was sufficient to establish admissibility.